

EXHIBIT A

MARKED-UP COPY OF AMENDED AND NEW CLAIMS FOR U.S. SERIAL NO. 09/404,448

41. (Amended) A recombinant herpes simplex [virus ICP27 deletion mutant comprising] viral vector that comprises a DNA segment isolated from herpes simplex virus ICP27 deletion mutant ATCC PTA-4004, wherein said segment encodes an adeno associated virus *cap* gene and an adeno associated *rep* gene, and further wherein each of said genes is operably linked to a homologous or a heterologous promoter.
42. (Twice Amended) The recombinant herpes simplex [virus ICP27 deletion mutant] viral vector of claim 41, wherein said homologous promoter comprises a p5, p19 or p40 promoter.
43. (Twice Amended) The recombinant herpes simplex [virus ICP27 deletion mutant] viral vector of claim 41, wherein [the] said heterologous promoter [is] comprises a CMV 40, HIV LTR, HCMV IE or HSV 110 promoter.
45. (Twice Amended) The recombinant herpes simplex [virus ICP27 deletion mutant] viral vector of claim 41, wherein said adeno associated virus *cap* gene or said adeno associated *rep* gene is obtained from an adeno-associated virus selected from the group consisting of AAV-1, AAV-2, AAV-3, AAV-4, AAV-5, and AAV-6.
46. (Twice Amended) [A] The recombinant herpes simplex [virus mutant] viral vector of claim 41, further comprising [an adeno associated virus *rep* gene and an adeno associated virus *cap* gene, each operably associated with a promoter wherein said mutant comprises] a deletion or an alteration of a non-essential gene for helper virus function [in] or replication of an adeno-associated virus.
47. (Twice Amended) The recombinant herpes simplex [virus mutant] viral vector of claim 46, wherein [the mutant is an] said deletion or said alteration [in IE63 immediate early gene] is effective to increase expression of ICP8 protein.

48. (Twice Amended) The recombinant herpes simplex [virus mutant] viral vector of claim 46₂ wherein said [mutant] vector fails to express ICP27 protein.
49. (Twice Amended) The recombinant herpes simplex [virus mutant] viral vector of claim 46₂ wherein [the] said [mutant] vector fails to express glycoprotein H.
57. (Twice Amended) A kit comprising the recombinant herpes simplex viral vector of claim [50]41, and instructions for [use] using said vector.
61. (Amended) [The] A recombinant herpes simplex virus [ICP27 deletion mutant of claim 41,] identified as [recombinant herpes simplex virus rHSV d27.1rc (ATCC XXXXX)] American Type Culture Collection Deposit Accession Number PTA-4004.
63. (New) The recombinant herpes simplex viral vector of claim 41, comprising a DNA segment that comprises an AAV-2 rep coding sequence operably linked to a promoter, an AAV-2 cap coding sequence operably linked to a promoter and at least a first sequence that encodes a Herpes simplex viral protein selected from the group consisting of UL5, UL8, UL52, and UL29.
64. (New) A virion or viral particle that comprises the recombinant herpes simplex viral vector of claim 41.
65. (New) A plurality of virions or viral particles that comprise the recombinant herpes simplex viral vector of claim 41.

66. (New) A host cell that comprises the recombinant herpes simplex viral vector of claim 41, the virion or viral particle of claim 64, or the plurality of virions or viral particles of claim 65.
67. (New) The host cell of claim 66, wherein said cell is a mammalian cell.
68. (New) The host cell of claim 67, wherein said mammalian cell is a human cell.
69. (New) The host cell of claim 66, further comprising an rAAV vector or provirus.
70. (New) The host cell of claim 69, wherein said rAAV vector or provirus comprises a therapeutic gene.
71. (New) A composition comprising the recombinant herpes simplex viral vector of claim 41, the virion or viral particle of claim 64, or the plurality of virions or viral particles of claim 65.
72. (New) The composition of claim 71, further comprising a pharmaceutical buffer or excipient.
73. (New) The composition of claim 72, formulated for administration to a mammal.
74. (New) The composition of claim 73, wherein said mammal is a human.

75. (New) A composition comprising the recombinant herpes simplex viral vector of claim 41, and a host cell that comprises an rAAV vector or an rAAV provirus.
76. (New) A mammalian host cell comprising the recombinant herpes simplex viral vector of claim 61.
77. (New) The mammalian host cell of claim 76, further comprising an AAV virion, viral particle, or an rAAV vector.
78. (New) The mammalian host cell of claim 77, wherein said AAV virion, viral particle, or rAAV vector comprises a nucleic acid segment that encodes a therapeutic polypeptide.